UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JANE DOE, Individually and
As Next Friend of JULIE DOE, a minor,

Plaintiffs,

v.

MYSPACE, INC., and
NEWS CORPORATION,

Defendants.

No. 06-cv-7880 (MGC/AJP)

AFFIDAVIT OF CLIFFORD THAU IN SUPPORT OF MYSPACE, INC.'S MOTION TO DISMISS

STATE OF NEW YORK §
§
COUNTY OF NEW YORK §

CLIFFORD THAU, being duly sworn, state as follows:

1. I am a partner in the firm of Vinson & Elkins L.L.P. ("V&E"), and counsel of record for MySpace, Inc. in the above captioned case. I am submitting this affidavit in support of MySpace's Motion to Dismiss and accompanying Memorandum of Law, and I have personal knowledge of the facts and matters stated in this affidavit and, if called as a witness, would testify to the facts set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' Original Petition in *Doe v. MySpace, Inc., et al.*, No. D-1-GN-06-002209, 261st Judicial District Court, Travis County, Texas, dated June 19, 2006.

3. Attached hereto as Exhibit B is a true and correct copy of Plaintiffs' First Amended Original Petition in *Doe v. MySpace, Inc., et al.*, No. D-1-GN-06-002209, 261st Judicial District Court, Travis County, Texas, dated August 10, 2006.

Dockets.Justia.com

4. Attached hereto as Exhibit C is a true and correct copy of Plaintiffs' Motion to Nonsuit Without Prejudice in *Doe v. MySpace, Inc., et al.*, No. D-1-GN-06-002209, 261st Judicial District Court, Travis County, Texas, dated September 27, 2006, and Order granting same dated September 28, 2006.

5. Attached hereto as Exhibit D is a true and correct copy of Plaintiffs' Verified Complaint in *Jane Doe v. MySpace, Inc. and News Corp.*, Supreme Court of the State of New York, County of Bronx, Index No. 21278/06, dated September 25, 2006.

6. Attached hereto as Exhibit E is a true and correct copy of the following news article: Saul Hansell, *Making Friends Was Easy. Big Profit Is Tougher*, New York Times, dated April 23, 2006.

7. Attached hereto as Exhibit F is a true and correct copy of the following news article: Julia Angwin and Brian Steinberg, *News Corp. Goal: Make MySpace Safer for Teens*, Wall Street Journal, dated February 17, 2006.

8. Attached hereto as Exhibit G is a true and correct copy of the following news article: John Moritz, *Texas AG Wants Web Sites to Protect Young Users*, Fort Worth Star-Telegram, dated May 23, 2006.

9. Attached hereto as Exhibit H is a true and correct copy of the following news article: *MySpace.com to Bolster Security Measures*, Reuters Limited, dated March 3, 2006.

10. Attached hereto as Exhibit I is a true and correct copy of the following news article: Jessi Hempel, *From MySpace to Safer Place?*, Business Week, dated April 11, 2006.

11. Attached hereto as Exhibit J is a true and correct copy Plaintiffs' First Amended Response to Defendants' Special Exceptions in *Doe v. MySpace, Inc., et al.*, No. D-1-GN-06-002209, 261st Judicial District Court, Travis County, Texas, dated September 1, 2006.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law, it is respectfully submitted that this Motion to Dismiss should be granted in all respects.

Executed October 13, 2006.

Clifford Thau (CT 8708)
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Attorney for Defendant MySpace, Inc.

Subscribed and sworn to before me on the 13th day of October 2006.

Notary Public, State of New York

DEBBIE E. GREEN
NOTARY PUBLIC, State of New York
No. 02GR6129
Qualified in New York County
Commission Expires June 27, 2009